



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

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Planning Board Draft Minutes

January 8th, 2020

7:00 pm at Community Development Meeting Room

3 North Lowell Road

Attendance:

Chair, Paul Gosselin, Present
Vice Chair, Derek Monson, Present
Alan Carpenter, Present
Margaret Crisler, Excused
Joe Bradley, Present
Jennean Mason, Excused
Kathleen DiFruscia (alternate), Excused
Matt Rounds (alternate), Present, seated for Ms. Mason
Gabe Toubia (alternate), Present, seated for Ms. Crisler
Oliver Liu (alternate), Present
Heath Partington, Board of Selectmen liaison, Present
Joel Desilets, Board of Selectmen liaison (alternative), Present from 7:23 to 8:47

Dick Gregory- Planning Board Director
Renee Mallett- Minute Taker

The meeting opened at 7:03 with the Pledge of Allegiance and the introduction of members.

Mr. Rounds made a motion to continue Case 2019-35 Final Subdivision (Minor) to January 15, 2020 at 7:00pm. Vice Chair Monson seconded the motion. 7-0, the motion passed.

Citizen's Petition #1- Rezoning 150 Haverhill Rd. (Lot 9-A-500) Clarke Farm North

Mr. Partington recused himself as he is an abutter of the property.

Chair Gosselin explained the process of Citizen's Petitions to the assembled residents and cautioned them that the board could not alter the language of the petition as it was submitted. Mr. Shayne Gendron spoke on behalf of the petitioner, sharing the history of the parcel and the repeated attempts at rezoning it. Most recently a protest petition stopped the lot from being rezoned as Residence B. It is currently in the Rural District. Mr. Gendron showed a series of possible development plans though Chair Gosselin pointed out that the issue at hand was zoning and that the applicant would not be bound to any of the plans if the zoning was changed. Mr. Gendron agreed, calling them examples of what might be built in the future.

43 Mr. Rounds asked what the current cost for workforce housing was at this time. Attorney
44 Panciocco, speaking on behalf of the applicant said it was a maximum of \$273,000. Mr. Norman disagreed
45 and said the number was currently \$330,000.

46 Attorney Panciocco described the town as having a dire need for workforce housing and discussed
47 the ongoing litigation surrounding the previous failed attempt at rezoning this property. Attorney Panciocco
48 said a previous court ruling had referenced the fact that the rezoning attempt did not specify that the
49 property would be used for workforce housing. That oversight has been corrected with this current citizen's
50 petition and has committed the applicant to a baseline of 25% workforce housing and 75% market rate
51 units. Attorney Panciocco said her client would be willing to change that from 25% to a minimum of 25%.
52 However, Chair Gosselin said that the deadline for altering the language of the petition had passed and that
53 the board would have to consider the language of the item as it was written today.

54 Mr. Rounds asked if any of the abutters had signed in favor of the petition. Attorney Panciocco said
55 she did not believe any had and did not think that any would.

56
57 **Mr. Desilets was seated at 7:23.**
58

59 Town Attorney Campbell addressed the board and agreed that the applicant would not be bound to
60 the plans presented at this meeting and could build whatever would fit the zoning if the rezoning was
61 approved. He said that this petition would, in essence, create a special sub-district of residence B as the
62 petition specified unique requirements to the rezoning. The Planning Board could not approve any plans
63 that do not meet the specifics listed in the petition but, like any parcel, the applicant could approach the
64 ZBA for relief from the zoning requirements.

65 Attorney Campbell said that workforce housing was already allowed within the Rural District and
66 the parcel did not have to be rezoned to allow it. Mr. Rounds asked why the applicant was asking for the
67 rezoning if his intention was to build workforce housing. Attorney Campbell said he could not speak on
68 behalf of the applicant. He said that the applicant had contended in the past that other parts of the zoning
69 ordinance limited the development of workforce housing in other ways.

70 Attorney Panciocco agreed that workforce housing was allowed on the parcel currently but only as
71 single-family detached houses. The houses would have to sit on single sub-divided lots with 75 feet of
72 frontage and roads would need to be built. The applicant felt that condominium style multi-family buildings
73 with common land would keep things more tailored and be more profitable.

74 Mr. Carpenter asked Attorney Panciocco if she was familiar with the plans shown by Mr. Gendron
75 this evening. He contended that 3 of the 5 would not be allowed even if the parcel was rezoned to
76 Residence B. Attorney Panciocco said they were not refined plans.

77
78 **Chair Gosselin opened the session to public comment, asking the residents not to focus on the**
79 **plans as the matter at hand was rezoning, and reminding them that as this was a citizen's petition the**
80 **board could only recommend or not recommend on the ballot.**
81

82 Lou Zahkis said that an assumption was made last year that because abutters did not attend the
83 public meeting on the applicant's rezoning attempt that they were in favor of the plan. He came this
84 evening to show he was not. Mr. Zahkis said there was no need to rezone the parcel if the applicant's
85 intention was to build workforce housing. The applicant had bought the land as Rural and should be
86 expected to develop it as rural. He said the applicant shouldn't look to the abutters and the town to bail
87 him out of what he described as a "bad investment." Mr. Zahkis said the rezoning would negatively impact
88 the town with increased traffic and an increase of children in the school system. He asked the board to not
89 recommend this petition.
90

91 Ted Maravelias agreed with the points raised by Mr. Zahkis. He said rezoning this parcel would turn
92 the town of Windham into the city of Windham and was concerned about traffic.
93

94 Jacob Cross thanked the board for volunteering. He said that the fact that there were not a lot of
95 ugly apartment buildings in town could be because that is not what the residents want. Referencing a
96 survey that had been done by the town Mr. Cross said that 97% of residents did not want workforce
97 housing and that the number one reason why people moved to Windham was for the small-town feel. He
98 feels there is a disconnect between what the town's Master Plan calls for and what residents really want.
99 He felt the parcel was perfect for entry level housing as it was and that it did not have to be rezoned to do
100 this. Mr. Cross said the developer bought the parcel knowing it was in the rural district and that he should
101 have to develop it to the standards of that zoning.
102

103 Jack Gatinella, 2 Buckeye Road, found fault with how the previous attempts at rezoning this parcel
104 appeared on the ballot. He felt people did not know what they were voting for and that residents voted per
105 the board recommendation. He asked the board to give no recommendation at all and to leave it up to the
106 voters.
107

108 Gina White, 30 Sharon Road, is a teacher in a town that she said had a great school system until a
109 58-unit workforce housing unit was built. She said this had a huge negative impact on the school and that it
110 strained the district resources.
111

112 Curtis McGivney, 13 Easy Street, had issues with the wording of the petition. He said it would also
113 set a precedent to other developers in the future if this parcel was rezoned to maximize profits. He felt if
114 this was passed there would be many more developers filing petitions for rezoning rather than going
115 through the boards for oversight.
116

117 Mr. Rounds told the assembled residents that workforce housing was a state mandate, not
118 something that came from the town itself and that if they had issues with it, they should address them with
119 the state representatives.
120

121 Christine Hall, 11 Galway Road, questioned the placement of this parcel for workforce housing as it
122 was far from the highway. She said traffic is already bad in this part of town and that it was a safety issue.
123

124 Matt Hill, Canterbury Road, was concerned about the environmental impact of such a large amount
125 of impervious coverage if something like the plans presented were built. He said the parcel was 400 feet
126 from the flood zone and that there was a stream on the property not considered in the plans.
127

128 Rebecca Zahkis was concerned about the density. She said all of the abutter properties were rural
129 and that this parcel should be developed in the same way. Ms. Zahkis said that the applicant could rezone
130 the property and sell it as is for a profit. She felt the school board should be consulted about any plans that
131 could result in such a large influx of students to town.
132

133 Heath Partington, speaking as a resident and not as a Selectman, discussed the three separate
134 paths this parcel could follow. He reminded the board that litigation is still ongoing concerning the previous
135 rezoning attempts. He felt that the specific percentages mentioned in the petition could tie the board's
136 hands at a future date when the parcel was brought before them to be developed.
137

138 John Motta agreed that he voted based on board recommendations.

139 **Chair Gosselin closed the session to public comment.**

140
141 Mr. Rounds said that while the board always had to weigh the rights of landowners versus the
142 rights of abutters he agreed that the applicant had bought the land as rural and that the abutters had also
143 bought their homes with the expectation that the land would remain rural. He said he would vote to not
144 recommend.

145 Mr. Bradley had issues with the 75%/25% wording used in the petition. He said it did not meet the
146 zoning of either district. He felt the town needed more affordable housing but did not think this was the
147 right spot as it was not near essential services and was not a good fit with the neighborhood surrounding it.
148 He said he would also vote against recommending this.

149 Vice Chair Monson echoed many of the same sentiments and said that the measure had been voted
150 against by residents many times in the past. He said if the applicant wanted to build workforce housing
151 here, he already could. He would also vote to not recommend this petition.

152 Mr. Carpenter said that as a citizen's petition it kept the board from coordinating with the school
153 board or conservation in the same way they would have if it was a board project. He also had issue with the
154 wording of the petition and said he would vote against recommending it, though he did cite the law of
155 unintended consequences and warned abutters they might defeat this measure but end up with something
156 they disliked even more in the future.

157 Mr. Toubia said he sits on two school related committees and that the school board is aware of the
158 efforts to rezone this parcel. He said he could not support the petition.

159 Mr. Desilets said he did not disagree with what any of the other board members had said but that
160 the survey referenced by Mr. Cross was done before the school expansion project and he felt residents
161 might feel differently now. He suggested another survey be done but said he would go "with the pleasure
162 of the board" and vote against recommending the petition.

163 Mr. Liu said he did not know that the town needed this parcel rezoned to meet the workforce
164 housing numbers. He agreed with the sentiment that the applicant bought rural and it should stay rural. He
165 said if he was seated, he would vote to not recommend.

166 Chair Gosselin said that he might feel differently if the petition was simply asking to be rezoned to
167 Residence B but the extra language and specifications gave him pause. He questioned if they would even be
168 enforceable and did not want to recommend a petition he did not think could be enforced. Chair Gosselin
169 said the parcel had options for development, including building workforce housing.

170
171 **Vice Chair Monson made a motion to not recommend Citizen's Petition #1 due the extraneous**
172 **specifications in the wording, after some procedural discussion. Mr. Toubia seconded the motion with**
173 **Attorney Campbell concurring that the intent of the motion was clear. 6-1, the motion passed, with Mr.**
174 **Desilets voting against the measure despite earlier comments that he would vote in favor of not**
175 **recommending, as he said he felt he had legal concerns about voting against it.**

176
177 **Mr. Partington was reseated at 8:47.**

178
179 **Planning Board Amendment #1: addressing the Wetland & Watershed Protection**
180 **District acronym.**

181
182 **Chair Gosselin opened the session to public comment.**
183

184 Betty Dunn questioned the procedure surrounding the amendment, asking if it was necessary to
185 make the ballot longer for what she described as a “scrivener’s error.” Attorney Campbell felt it was
186 necessary.
187

188 **Chair Gosselin closed the session to public comment.**
189

190 **Vice Chair Monson made a motion to move the item to the ballot as posted. Mr. Toubia seconded**
191 **the motion. 6-0, the motion passed while Mr. Carpenter had stepped outside for a short break.**
192
193

194 **Planning Board Amendment #2 adding a Purpose Clause to Residence Districts**

195 Ms. Wendy Williams questioned why the agenda listing for this item used different wording than
196 what was read aloud at the meeting. Attorney Campbell told her that the agenda did not need to use the
197 full legal wording and that was why a note at the bottom of the agenda told residents that the full text of
198 the amendments was available at the Community Development Department for review.
199

200 **Mr. Rounds made a motion to move the amendment to the ballot. Mr. Carpenter seconded the**
201 **motion. Attorney Campbell suggested that the motion be amended to say that the amendment be**
202 **moved to the ballot as posted, not as the full text, for the sake of brevity on the ballot. The motion was**
203 **thus amended and the second still stood. 7-0, the motion passed.**
204

205 **Planning Board Amendment #3 changing the word (must to may) relative to**

206 **community gathering spaces in the Housing for Older Persons section.**

207
208 **Chair Gosselin opened and closed the session to public comment.**
209

210 **Mr. Carpenter made a motion to move the amendment as posted to the ballot. Mr. Rounds**
211 **seconded the motion. 7-0, the motion passed.**
212

213 **Planning Board Amendment #4 exempting certain retaining walls from the**

214 **“impervious surface” calculations.**

215
216 **Chair Gosselin opened and closed the session to public comment.**
217

218 A typo in the posting was discussed with Attorney Campbell saying it was clear that it was a typo
219 and what the intent of the amendment was.
220

221 **Mr. Carpenter made a motion to move the amendment as read to the ballot. Mr. Rounds**
222 **seconded the motion. 7-0, the motion passed.**
223

224 **Planning Board Amendment #5 addressing the Cobbett’s Pond and Canobie Lake**

225 **Watershed Protection Ordinance acronym.**

226
227 **Chair Gosselin opened and closed the session to public comment.**

Mr Norman read an email from a resident concerning the legal implications of changing the acronym in regard to how that would impact the heading of the ordinance as it was written in its entirety. Mr. Norman did not think it was an issue.

Mr. Rounds made a motion to move the amendment as posted to the ballot. Mr. Toubia seconded the motion. 7-0, the motion passed.

Planning Board Amendment #6 addressing (Minor & Major) Cobbett's Pond and Canobie Lake Watershed Protection Ordinance Applications.

Chair Gosselin opened and closed the session to public comment.

Mr. Rounds made a motion to move the amendment as posted to the ballot. Vice Chair Monson seconded the motion. 7-0, the motion passed.

Planning Board Amendment #7 adding 84 Governor Dinsmore Rd

Chair Gosselin opened and closed the session to public comment.

Mr. Toubia made a motion to move the amendment as posted to the ballot. Mr. Rounds seconded the motion. 7-0, the motion passed.

Building Codes

Chair Gosselin opened and closed the session to public comment.

Mr. Bradley made a motion to move the amendment as posted to the ballot. Vice Chair Monson seconded the motion. 7-0, the motion passed.

Old/New Business

Chair Gosselin thanked Mr. Liu for volunteering on the board as Mr. Liu had announced he had taken a job offer out of state and would no longer be able to serve as an alternate on the board.

Mr. Carpenter made a motion to adjourn the meeting. Mr. Rounds seconded the motion. 7-0, the motion passed.